

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MICHAEL T. WILLIAMS,

Petitioner,

vs.

CRAIG FARWELL, et al.,

Respondents.

Case No. 3:04-cv-00225-RCJ-VPC

**ORDER**

On September 28, 2007, the court denied the petition for a writ of habeas corpus and entered judgment (#34). On May 22, 2014, petitioner filed a notice of appeal (#35). The court of appeals has noted (#39) that it will not set a briefing schedule until this court, and the court of appeals, if necessary, determine whether a certificate of appealability should issue. Petitioner has submitted an application for certificate of appealability (#40).

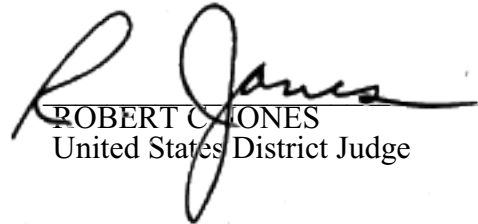
This court did not determine whether a certificate of appealability should issue at the time it denied the petition because Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts had not yet been amended to instruct district courts to make such a determination. Petitioner was under the obligation to file a motion for a certificate of appealability.

The appeal is untimely. The time to file a notice of appeal expired at the end of October 29, 2007. See Fed. R. App. P. 4(a), 26(a)(1)(C). The time to request an extension of the time to file a notice of appeal expired at the end of November 28, 2007. See Fed. R. App. P. 4(a)(5). It does not appear that the provision for reopening the time to file an appeal is applicable. See Fed. R. App. P. 4(a)(6). First, court sent petitioner notice of the entry of the judgment on September 28, 2007.

1 Nothing in the docket indicates that petitioner did not receive that notice within 21 days of entry of  
2 the judgment. See Fed. R. App. P. 4(a)(6)(A). Second, the outermost limit for filing a request to  
3 reopen the time for appeal is 180 days after entry of judgment, or March 26, 2008, and petitioner  
4 filed nothing in the court in that time. See Fed. R. App. P. 4(a)(6)(B). Reasonable jurists would not  
5 disagree with these determinations.

6 IT IS THEREFORE ORDERED that petitioner's application for certificate of appealability  
7 (#40) is **DENIED**. A certificate of appealability shall not issue.

8 Dated: July 8, 2014

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12 ROBERT C. JONES  
13 United States District Judge  
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